

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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FRED BROWN,

Plaintiff,

-v.-

9:06-CV-1126  
(LEK/RFT)

KEPIEC, *Mail Room Supervisor*;  
MR. KENNETH PERLMAN, *Superintendent*,

Defendants.

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APPEARANCES:

FRED BROWN  
99-A-3642  
Mid-State Correctional Facility  
P.O. Box 2500  
Marcy, NY 13403  
Plaintiff, *pro se*

LAWRENCE E. KAHN, U.S. DISTRICT JUDGE

**ORDER**

The Clerk has sent to the Court a civil rights Complaint, together with an application to proceed *in forma pauperis* and a Motion for a Preliminary Injunction filed by Plaintiff Fred Brown (“Plaintiff” or “Brown”), who is currently incarcerated at Mid-State Correctional Facility. See Complaint (Dkt. No. 1); IFP Applic. (Dkt. No. 2); Motion (Dkt. No. 4).

In his *pro se* Complaint, Plaintiff alleges that his access to the courts has been hindered by Defendant Kepiec not forwarding his mail to Metropolitan Detention Center Brooklyn. See Complaint (Dkt. No. 1) at ¶¶ 10-17. Plaintiff alleges that Defendant Kepiec’s actions caused Plaintiff to miss an opportunity to appeal the Second Circuit’s April 24, 2006 denial of Plaintiff’s

motion for *in forma pauperis* status and appointment of counsel.<sup>1</sup> Id. For a complete statement of Plaintiff's claims, reference is made to the Complaint.

With respect to Plaintiff's Motion for a Preliminary Injunction the Court finds that a Response to the Motion must be filed by the Office of the Attorney General of the State of New York ("Attorney General"). Therefore, the Court hereby directs the Clerk to serve a copy of the Motion for Injunctive Relief on the Attorney General by certified mail. Such Office shall thereafter file with the Court, and serve on Plaintiff, a response to such Motion within **twenty (20) days** of the date of service of process on the first Defendant to be served in this action. After the Attorney General has filed a Response to the Motion, in the manner discussed above, the Clerk shall send the file in this matter to the Court for further review.

WHEREFORE, it is hereby

**ORDERED**, that Plaintiff's *in forma pauperis* Application (Dkt. No. 2) is **GRANTED**.<sup>2</sup> The Clerk shall issue Summonses and forward them, along with copies of the Complaint, to the United States Marshal for service upon the named Defendants; and it is further

**ORDERED**, that the Clerk provide the Superintendent of the facility, designated by Plaintiff as his current location, with a copy of Plaintiff's authorization form (Dkt. No. 9), and notify the official that this action has been filed and that Plaintiff is required to pay the entire statutory filing fee of \$350.00 pursuant to 28 U.S.C. § 1915; and it is further

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<sup>1</sup> The Court notes that on April 24, 2006, the Second Circuit denied Plaintiff's motion for *in forma pauperis* status and appointment of counsel in Brown v. Gloss, 9:04-CV-0981, Dkt. No. 17.

<sup>2</sup> Plaintiff should note that although the application to proceed *in forma pauperis* has been granted, Plaintiff will still be required to pay fees that he may incur in this action, including copying and/or witness fees.

**ORDERED**, that the Clerk provide a copy of Plaintiff's authorization form (Dkt. No. 9) to the Financial Deputy of the Clerk's Office; and it is further

**ORDERED**, that the Clerk shall serve a copy of the Motion for a Preliminary Injunction (Dkt. No. 4), a copy of the Summons and Complaint, and a copy of this Order on the Attorney General<sup>3</sup> by **certified mail**; and it is further

**ORDERED**, that Defendants' counsel file with the Court, and serve on Plaintiff, a Response to Plaintiff's Motion for a preliminary injunction **WITHIN TWENTY (20) DAYS** of the date of service of process on the first Defendant served in this action; and it is further

**ORDERED**, that after the Attorney General has filed a response to the Motion for a Preliminary Injunction in the manner discussed above, the Clerk shall forward the file in this matter to the Court for further review; and it is further

**ORDERED**, that a response to Plaintiff's Complaint be filed by Defendants or their counsel as provided for in the *Federal Rules of Civil Procedure* after service of process on Defendants; and it is further

**ORDERED**, that all pleadings, motions and other documents relating to this action be filed with the Clerk of the United States District Court, Northern District of New York, 7th Floor, Federal Building, 100 S. Clinton St., Syracuse, New York 13261-7367. **Any paper sent by a party to the Court or the Clerk must be accompanied by a certificate showing that a true and correct copy of same was mailed to all opposing parties or their counsel. Any document received by the Clerk or the Court which does not include a certificate of service showing that a copy was served upon all opposing parties or their attorneys will be returned, without processing.**

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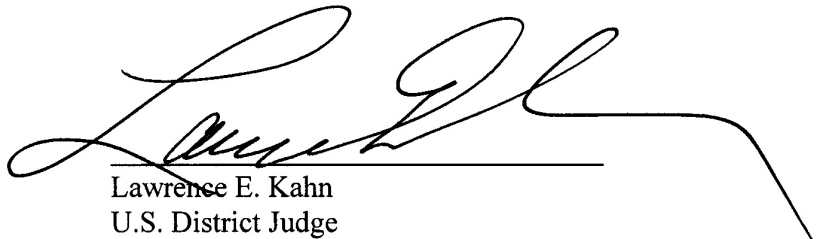
<sup>3</sup> Hon. Andrew M. Cuomo, Office of the Attorney General, State of New York, Department of Law, The Capitol, Albany, New York 12224.

Plaintiff must comply with any requests by the Clerk's Office for any documents that are necessary to maintain this action. All parties must comply with Local Rule 7.1 of the Northern District of New York in filing motions, which must be returnable before the assigned Magistrate Judge with proper allowance for notice as required by the Rules. **Plaintiff is also required to promptly notify the Clerk's Office and all parties or their counsel of any change in Plaintiff's address; his failure to do same will result in the dismissal of this action.** All motions will be decided on submitted papers without oral argument unless otherwise ordered by the Court; and it is further

**ORDERED**, that the Clerk serve a copy of this Order on Plaintiff by regular mail.

**IT IS SO ORDERED.**

DATED: January 22, 2007  
Albany, New York



Lawrence E. Kahn  
U.S. District Judge